

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>2:02-cv-548</b>
	)	
<b>v.</b>	)	
	)	
<b>R.P.C. EMPLOYER SERVICES, INC., DAN J. D'ALIO,</b>	)	
	)	
<b>Defendant.</b>	)	

**PRETRIAL ORDER**

AND NOW, this 6th day of January, 2006, the Court hereby ORDERS as follows:

**A. Final Pretrial Order:**

1. Jury selection and trial is hereby scheduled to commence on **March 27, 2006 at 9:30 a.m.**, in Courtroom 6C, Sixth Floor, U.S. Post Office & Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania 15219.

2. The following items shall be filed with the Clerk of Court, served upon opposing counsel and submitted to Chambers unless otherwise specified.

**3. Exchange of Witness Lists.**

(a) Plaintiff shall submit a final list of trial witnesses, specifying separately those who will be called and those who may be called if needed (other than purely for impeachment) by **March 6, 2006**.

(b) Defendants shall submit a final list of trial witnesses, specifying separately those who will be called and those who may be called if needed (other than purely for impeachment) by **March 13, 2006**.

**4. Exchange of Exhibits.**

(a) Plaintiff shall submit a list with copies of all proposed exhibits bound and consecutively numbered by **March 6, 2006**. (Copies of exhibits need not be filed with the Clerk, but shall be delivered to Chambers.)

(b) Defendants shall submit a list with copies of all proposed exhibits bound and consecutively lettered by **March 13, 2006**. (Copies of exhibits need not be filed with the Clerk, but shall be delivered to Chambers.)

(c) Voluminous data shall be presented by summary exhibits pursuant to Fed. R. Evid. 1006, and voluminous exhibits shall be redacted to eliminate irrelevant material (which shall remain available for examination by opposing counsel). Where copies of documents are offered, the originals shall be available for examination, unless waived by stipulation.

**5. Motions.** The parties shall file all motions in limine, including motions under Fed. R. Evid. 104(a) and motions to limit or sever issues, together with supporting briefs or memoranda of law, **on or before February 27, 2006**. Responses shall be filed by **on or before March 6, 2006**. All briefs supporting or opposing such motions shall be limited to ten (10) pages.

6. **Designation of Discovery Excerpts to be Offered at Trial.** The parties shall submit designation of excerpts from depositions, interrogatory answers, and responses to requests for admission to be offered at trial (other than for impeachment or rebuttal) by **March 13, 2006**.

7. **Proposed Jury Instructions.** Substantive jury instructions (elements of plaintiff's cause of action and defendant's defenses) are to be submitted in the following format:

(a) The parties are required to jointly submit one set of agreed-upon instructions by **March 20, 2006** with citations of authority. To this end, counsel are required to serve their proposed instructions upon each other three (3) weeks prior to trial. Counsel should then meet, confer and submit one complete set of agreed-upon instructions.

(b) If counsel cannot agree upon one complete set of instructions, they are required to submit one set of agreed-upon instructions and separate supplemental sets of instructions which are not agreed-upon with specific objections and citations of authority regarding the disputed instruction(s).

(c) All instructions should be short, concise, understandable and neutral statements of law. Argumentative or formula instructions are improper and should not be submitted. The parties should note that the Court generally prefers instructions from "Federal Jury Practice and Instructions," O'Malley, Grenig and Lee.

**8. Proposed Voir Dire.** The parties shall file any proposed voir dire questions, if different from those listed at Local Rule 47.1, by **March 20, 2006**.

**9. Proposed Verdict Forms.** The parties shall submit proposed verdict forms by **March 20, 2006**.

**10. Joint Stipulations.** The parties shall file a joint statement of stipulations by **March 20, 2006**. All possible stipulations shall be made as to:

- (a) Facts;
- (b) Issues to be decided;
- (c) The authenticity and admissibility of exhibits;
- (d) Expert qualifications and reports;
- (e) Deposition testimony to be read into the record;
- (f) A brief statement of the claims and defenses to be read to the jury at the introduction of the trial.

Counsel shall meet at a mutually convenient time and place to produce the joint stipulation in time for filing as ordered.

**11. Final Pretrial Conference.** A final pretrial conference may be scheduled, if requested.

**B. Trial Procedures:**

1. Court will commence promptly at **9:00 A.M.** each morning. A morning break will be taken at approximately **11:00 A.M.** Luncheon recess will be from **12:30 P.M.** to **1:30 P.M.** An afternoon break will be taken at approximately **3:00 P.M.** and Court will adjourn at **4:30 P.M.** **All counsel and witnesses are expected to be in their seats and ready to commence at the appointed times.** Court will be in session from Monday through Thursday.

2. Because counsel will have previously marked and exchanged all exhibits and provided a copy to the Court, it will not be necessary during the trial to show exhibits to opposing counsel prior to using them.

3. It will not be necessary for counsel to request permission to approach a witness.

4. Up to one hour is permitted each party for opening and closing statements, depending on the complexity of the case.

5. Counsel may use exhibits or charts in an opening statement provided that the same have been provided to opposing counsel beforehand and either agreement was reached or the Court has ruled upon the matter.

6. Side bar conferences are discouraged. The flow or continuity of the case militates against a side bar each time an evidentiary problem arises. Counsel shall be prepared to state the legal basis for an objection with specific reference to the applicable Federal Rule of Evidence, without elaboration, opinion or argument (unless invited), and the Court will rule on

the objection without additional discussion except in the most doubtful or critical areas. If necessary, counsel and the Court may amplify their objections and rulings on the record after the jury has been excused for a break, lunch or for the day.

It is expected that counsel will anticipate sensitive evidentiary issues which may require lengthy argument and will take up such matters out of the presence of the jury. The Court will be available at **8:00 A.M.** (or earlier if necessary) each morning and **4:30 P.M.** each afternoon to address such issues. It is the responsibility of counsel to notify the Court and other counsel of the need for a conference at 8:00 A.M. or 4:30 P.M. and all other counsel will be expected to be present at the appointed time for argument. **THE COURT WILL NOT DELAY THE PROCEEDING TO RESPOND TO LAST MINUTE REQUESTS FOR CONFERENCES TO DISCUSS MATTERS WHICH, IN THE EXERCISE OF REASONABLE DILIGENCE, COULD HAVE BEEN HEARD AT A MORNING OR AFTERNOON CONFERENCE.**

7. Prior to the commencement of the trial, counsel shall provide opposing counsel with the actual list of the next day's witnesses in the order they are expected to be called. The same procedure will be employed by both sides at the end of each court day.

8. The jury shall be permitted to take notes.

9. A copy of the written charge shall be provided to the jury for use during its deliberations.

10. Generally, the jury will have all exhibits during its deliberations.

11. The jury panel in this matter shall consist of eight (8) jurors.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

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